

REMARKS

Applicants request reconsideration of the application in view of this Amendment.

Independent Claim 1

The limitations of canceled claim 8 are incorporated into base claim 1. Claim 1 thus recites generating a test tone directed into the ear canal and monitoring an inner microphone to detect the test tone.

The only reference disclosing a tone test is Nielson, and his tone test is used to check whether his outer microphone is faulty. Modifying Nielson's test as the Examiner suggests, by adding Kate's inner microphone and then using it to monitor the test tone, would render the test unsuitable for its intended use of checking the outer microphone (col. 5, line 54). Therefore claim 1 is patentable over the cited prior art.

New Independent Claim 25

Similar to canceled claim 8, claim 25 recites sending an electrical test tone signal to the speaker and sensing whether the inner microphone detects the resulting test tone. Detecting the test tone with an inner microphone is not disclosed by the references, including Nielson and Kates that were cited against claim 8. Modifying Nielson's tone test to arrive at claim 25 would render Nielson's tone test unsuitable for its intended purpose as explained above.

Claim 25 further requires the hearing aid to perform the test in response to the inner microphone's energy level falling below a threshold. This limitation, also, is not suggested by the references. Nielson's hearing aid does not perform the tone test in response to the decline of any parameter, and Nielson doesn't even have an inner microphone.

Therefore, claim 25 is patentable over the prior art of record.

New Independent Claim 27

Similar to canceled claim 8, claim 27 recites sending an electrical test tone signal to the speaker. Claim 27 further recites generating an indication that the speaker is faulty if other (non-test tone) noise is detected by the inner microphone, and generating an indication that the inner microphone is faulty if other noise is not detected by the inner microphone.

This is not disclosed by any of the references, including Nielson and Kates that were cited against claim 8. The references even in combination do not suggest using an inner microphone for the tone test as explained above. They further do not disclose basing which component, the microphone or speaker, is faulty based on whether the microphone can or can't detect other noises.

Therefore, claim 27 is patentable over the prior art of record.

New Independent Claim 30

Claim 30 recites a hearing aid configured to monitor a performance parameter of the hearing aid, determine a malfunction from the parameter, and generate an indication of the malfunction. This procedure is done without participation of an external device or person. None of the references discloses this self-diagnostic aspect. Therefore, claim 30 is patentable over the prior art of record.

New Independent Claim 35

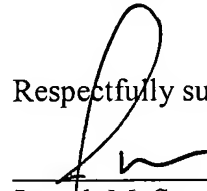
Claim 35 recites generating an indication of a malfunction based on a variation in the battery's current drain exceeding a threshold value. None of the references suggests this. Even Fletcher, who bases a malfunction indication on the battery's voltage (col. 5, lines 11-23) does not consider its current drain. Therefore, claim 35 is patentable over the prior art of record.

Dependent Claims 2-7, 26, 28-29, 31-34 and 36

The remaining claims are all dependent claims. They depend from base claims that are explained above to be patentable over the prior art. The limitations that the dependent claims add to the base claims distinguish them further from the prior art. Therefore, the dependent claims also are patentable.

The application is now in condition for allowance, and allowance is requested.

Respectfully submitted,



Joseph M. Sauer (Reg. No. 47,919)
JONES DAY
901 Lakeside Avenue
Cleveland, Ohio 44114
(216) 586-7506

Date: 7/18/6